

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10 NETWORK PROTECTION SCIENCES,
11 LLC,

No. C 12-01106 WHA

12 Plaintiff,

13 v.

**ORDER RE SEALING
MOTION (DKT. NO. 243)**

14 FORTINET, INC.,

15 Defendant.
16 _____/


17 The Court is concerned that counsel for Fortinet have missed a deadline under our local
18 rules to protect sensitive material filed by Network Protection Sciences, LLC (NPS) in support
19 of its summary judgment opposition. Specifically, NPS complied with Local Rule 79-5(d) by
20 filing an administrative motion to seal documents designated “highly confidential — attorney’s
21 eyes only” by Fortinet, as well as portions of NPS’s brief referencing confidential information
22 (Dkt. No. 243). Under the Local Rule, the burden then shifted to Fortinet to “file with the Court
23 and serve a declaration establishing that the designated information is sealable, and . . . lodge and
24 serve a narrowly-tailored proposed sealing order” within seven days of NPS’s administrative
25 motion. The deadline is long past and no declaration (or proposed order) has been filed.

26 Local Rule 79-5(d) further provides that “[i]f the designating party does not file its
27 responsive declaration as required by this subsection, the document or proposed filing will be
28 made part of the public record.” Although much of the material subject to NPS’s sealing motion
and designated confidential by Fortinet should not be under seal, certain source code references

1 scattered throughout the documents and two technical memos (Dkt. Nos. 240-3-4) are possibly
2 sealable. Counsel for Fortinet shall have until **NOON ON FRIDAY, SEPTEMBER 13** to file an
3 appropriate declaration along with updated documents redacting only information that is
4 properly sealable. Fortinet shall be deemed to have irrevocably waived confidentiality for any
5 confidential information in the subject documents other than these source code references and
6 technical memos. Counsel for Fortinet are advised that excessive redactions shall be rejected
7 and result in public filing of the subject documents.

8
9 **IT IS SO ORDERED.**

10
11 Dated: September 12, 2013.

12 
13 _____
14 WILLIAM ALSUP
15 UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28